

Oral Argument Calendar

United States Court of Appeals for the Sixth Circuit

Page 1

Tuesday, April 30, 2013

All Cases on Briefs

Before: **Batchelder, Guy, Boggs**

12-4118 USA v. Keith Thompson, Jr.

1:05-cr-00598-1

Northern District of Ohio at Cleveland

D. Nugent

Defendant appeals his motion for a sentence reduction under 18 U.S.C. Section 3582(c)(2). (To Be Submitted On Briefs)

12-1919 Jeffrey Kittka v. Jackie Franks

2:10-cv-11582

Eastern District of Michigan at Detroit

G. Rosen

Petitioner appeals the district court's judgment denying a petition for a writ of habeas corpus filed under 28 U.S.C Section 2254. (To Be Submitted On Briefs)

12-3794 USA v. Joel Rodriguez-Solano

2:12-cr-00016-1

Southern District of Ohio at Columbus

P. Economus

Defendant appeals the judgment of sentence entered on his guilty plea to unlawful reentry into the United States by an alien following conviction of a felony. (To Be Submitted On Briefs)

12-3660 Cynthia Ridley-Coleman v. Eric Holder, Jr.

a079 013 281

Board of Immigration Appeals

Petitioner seeks review of a decision of the BIA that denies an adjustment of status and a waiver of inadmissibility. (To Be Submitted On Briefs)

Tuesday, April 30, 2013

636 - 6th Floor East Courtroom, 9:00 A.M.

Before: **Merritt, Clay, Donald**

12-1642 USA v. Daryl Foster**2:11-cr-20475-1** Eastern District of Michigan at Detroit

L. Zatkoff

Defendant appeals the judgment of conviction and sentence entered on his guilty plea to conspiracy to possess a document making implement. (15 Minutes Per Side)

12-3698 Paula Crawford v. JPMorgan Chase & Co.**2:10-cv-00258** Southern District of Ohio at Columbus

G. Smith

Plaintiff appeals the summary judgment for defendant in this action for violation of the FMLA, retaliation in employment, and invasion of privacy. (15 Minutes Per Side)

12-3996 Dante Person v. Michael Sheets**1:10-cv-00035** Southern District of Ohio at Cincinnati

K. Litkovitz

T. Black

Warden appeals the district court's judgment granting in part the petition for a writ of habeas corpus, filed under 28 U.S.C. Section 2254. (15 Minutes Per Side)

12-1588 National Pastime Sports, LLC v. New Hampshire Insurance Compan**2:11-cv-11378** Eastern District of Michigan at Detroit

S. Cox

In this diversity insurance contract action, plaintiff appeals the judgment on the pleadings and the summary judgment for the insurance companies. (15 Minutes Per Side)

12-1589 Cleveland Indians Baseball Com v. New Hampshire Insurance Compan, et al.**2:11-cv-11378** Eastern District of Michigan at Detroit

S. Cox

In this diversity insurance contract action, plaintiff appeals the judgment on the pleadings and the summary judgment for the insurance companies. (15 Minutes for Plaintiff; 15 Minutes to be Shared by Defendants)

12-3551 USA v. Nancy Hurley**3:11-cr-00037-1** Southern District of Ohio at Dayton

T. Rose

Defendant appeals her conviction at bench trial and resulting sentence for making false statements or fraud regarding receipt of federal employees' compensation. (To Be Submitted On Briefs)

Tuesday, April 30, 2013

403 - 4th Floor Courtroom, 2:00 P.M.

Before: **Cole, Clay, Rogers**

10-5759 Ronald Cauthern v. Roland Colson

3:04-cv-1100

Middle District of Tennessee at Nashville

A. Trauger

Defendant appeals the denial of his motion to alter or amend a district court's order denying his habeas petition in this capital case. (30 Minutes Per Side)

Tuesday, April 30, 2013

607 - 6th Floor West Courtroom, 2:00 P.M.

Before: **Norris, Cook, McKeague**

11-2600 USA v. Raogo Ouedraogo

1:08-cr-68-2

Western District of Michigan at Grand Rapids

J. Neff

In this action tried to a jury, the government appeals the judgment of acquittal and the alternative conditional order granting a new trial. (15 Minutes Per Side)

12-5666 Coach, Inc., et al. v. Frederick Goodfellow

2:10-cv-2410

Western District of Tennessee at Memphis

D. Vescovo

Defendant appeals the judgment, including permanent injunctive relief, for plaintiffs in this civil action for trademark infringement. (15 Minutes Per Side)

11-2350 USA v. Rami Saba

1:08-cr-68-1

Western District of Michigan at Grand Rapids

J. Neff

The government appeals the sentence imposed on defendant following a jury trial on charges of bank fraud, aggravated identity theft and kidnapping charges. (To Be Submitted On Briefs)

12-1367 Bridget Walker, et al. v. Detroit Public School District, et al.

2:10-cv-12596

Eastern District of Michigan at Detroit

R. Cleland

Plaintiffs appeal the summary judgment for the school district and its employees in this civil rights action asserting claims arising from a shooting that occurred near a city high school. (To Be Submitted On Briefs)

Wednesday, May 01, 2013

109 - 1st Floor Courtroom, 9:00 A.M.

Before: **Merritt, Clay, Donald**

11-6175 USA v. Abel Tavera

2:10-cr-61-4

Eastern District of Tennessee at Greeneville

J. Greer

Defendant appeals his conviction at trial and resulting sentence for conspiracy to distribute methamphetamine and possession with intent to distribute methamphetamine. (15 Minutes Per Side)

12-4049 Jerry Engleson v. UNUM Life Insurance Company of, et al.

5:09-cv-02969

Northern District of Ohio at Akron

D. Dowd

In this action brought under the ERISA, plaintiff appeals the dismissal of his complaint seeking long-term disability benefits. (15 Minutes Per Side)

12-5590 Advanced Concrete Tools, Inc. v. Herman Beach, et al.

3:10-cv-01139

Middle District of Tennessee at Nashville

W. Haynes

Defendants appeal the summary judgment for them, including an award of damages to plaintiff, in this civil diversity action for breach of contract. (To Be Submitted On Briefs)

12-4073 Douglas Raymond v. Maureen O'Connor, et al.

2:11-cv-00819

Southern District of Ohio at Columbus

M. Watson

Plaintiff appeals the dismissal of his civil rights action against Justices of the Ohio Supreme Court in which he challenges procedures governing admission to the Ohio bar without taking a bar examination. (To Be Submitted On Briefs)

Wednesday, May 01, 2013

403 - 4th Floor Courtroom, 9:00 A.M.

Before: **Martin, Suhrheinrich, Cole**

12-4011 Ashley Washburn v. Lawrence County Board of Commi, et al.[1:10-cv-00464](#)

Southern District of Ohio at Cincinnati

S. Beckwith

Plaintiff appeals the summary judgment for defendants in this diversity action raising claims of negligence and res ipsa loquitor arising from plaintiff's injuries at an airport hangar. (15 Minutes for Plaintiff; 15 Minutes to be Shared by Defendants)

12-1766 Mitchell Housey v. Macomb County, et al.[2:10-cv-11445](#)

Eastern District of Michigan at Detroit

A. Cohn

Plaintiff appeals the summary judgment for defendants in this wrongful discharge action. (15 Minutes for Plaintiff; 15 Minutes to be Shared by Defendants)

12-6143 Melissa Barrett v. Cumberland Valley District Hea, et al.[6:11-cv-00145](#)

Eastern District of Kentucky at London

G. Van Tatenhove

Plaintiff appeals the summary judgment for defendants in this civil action under 42 U.S.C. Section 1983 stemming from her termination. (To Be Submitted On Briefs)

12-2262 National Viatical, Inc., et al. v. Universal Settlements[1:11-cv-01226](#)

Western District of Michigan at Grand Rapids

R. Bell

In this diversity breach of contract action, plaintiffs appeal the order dissolving preliminary injunctive relief. (15 Minutes Per Side)

12-3767 USA v. David Thurman[5:10-cr-00408-1](#)

Northern District of Ohio at Akron

D. Polster

Defendant appeals his conviction at jury trial and resulting sentence for possession of a firearm after conviction of a felony. (To Be Submitted On Briefs)

12-5844 USA v. Undra Williams[2:09-cr-20396-1](#)

Western District of Tennessee at Memphis

S. Mays

Defendant appeals the denial of his motion to suppress. (To Be Submitted On Briefs)

12-5849 In Re: Loring Justice[1:11-mc-00003](#)

Eastern District of Tennessee of Chattanooga

C. Collier

Petitioner appeals his six-month suspension from the practice of law before the United States District Court for the Eastern District of Tennessee. (To Be Submitted On Briefs)

Wednesday, May 01, 2013

607 - 6th Floor West Courtroom, 9:00 A.M.

Before: **Norris, Cook, McKeague**

12-3951 Bruce Ricker v. Zoo Entertainment, Inc., et al.

[1:11-cv-00490](#)

Southern District of Ohio at Cincinnati

K. Litkovitz

S. Spiegel

Plaintiff appeals dismissal for failure to state a claim of this action under Section 10(b) of the Securities and Exchange Act and Rule 10b-5. (15 Minutes Per Side)

12-3875 USA v. Deonte Sullins

[1:11-cr-00225-4](#)

Northern District of Ohio at Cleveland

D. Polster

Defendant appeals the judgment of conviction and sentence entered on his guilty plea to conspiracy to utter false securities and aiding and abetting the uttering of false securities. (To Be Submitted On Briefs)

12-3835 Donna Manwaring v. Erick Martinez, et al.

[3:11-cv-00102](#)

Northern District of Ohio at Toledo

J. Zouhary

Plaintiff appeals the summary judgment for defendants in this action for breach of contract, promissory estoppel, and other claims arising from an alleged partnership. (To Be Submitted On Briefs)

12-5843 USA v. Alphonzo Wright

[2:11-cr-20213-1](#)

Western District of Tennessee at Memphis

J. McCalla

Defendant appeals the judgment of conviction and sentence entered on his guilty plea to transportation of images depicting minors engaged in sexually explicit conduct. (To Be Submitted On Briefs)

Wednesday, May 01, 2013

636 - 6th Floor East Courtroom, 9:00 A.M.

Before: **Batchelder, Guy, Boggs**

12-1520 Laura Sheldon v. Thomas Vilsack, et al.

[1:11-cv-10487](#)

Eastern District of Michigan at Bay City

T. Ludington

12-3905 Christopher Tone, et al. v. Secretary, Department of Agric, et al.

[1:10-cv-00891](#)

Southern District of Ohio at Cincinnati

S. Dlott

Plaintiffs appeal the dismissal of their complaints alleging that defendants failed to implement statutory loan servicing that would assist them in avoiding foreclosure on their homes. (20 Minutes to be Shared by Plaintiffs; 20 Minutes for Defendants)

12-6021 Morris Aviation, LLC, et al. v. Diamond Aircraft Industries, I

[3:09-cv-00644](#)

Western District of Kentucky at Louisville

C. Simpson

Plaintiff appeals the dismissal of its diversity action alleging fraud and negligence claims related to aircraft purchases. (15 Minutes Per Side)

12-1732 USA v. Gary Mikulich

[2:11-mj-00011-1](#)

Western District of Michigan at Marquette

R. Edgar

Defendant appeals the order requiring that he be involuntarily medicated to render him competent to stand trial. (15 Minutes Per Side; To be argued by telephone)

Wednesday, May 01, 2013

607 - 6th Floor West Courtroom, 2:30 P.M.

Before: **Clay, McKeague, Kethledge**

09-4515 Stanley Fitzpatrick v. Margaret Bradshaw

1:06-cv-356

Southern District of Ohio at Cincinnati

S. Dlott

Defendant in this death penalty case appeals the denial of his petition for a writ of habeas corpus on grounds that his trial counsel was ineffective and that his jury waiver and guilty plea were not knowing, intelligent, and voluntary. (30 Minutes Per Side)

Thursday, May 02, 2013

403 - 4th Floor Courtroom, 8:00 A.M.

Before: **Martin, Guy, McKeague****12-5874 Grant, Konvalinka & Harrison v. Banks, et al.**[1:11-cv-00258](#)

Eastern District of Tennessee of Chattanooga

C. Collier

12-5875 Grant, Konvalinka & Harrison v. McKenzie, et al.[1:11-cv-00320](#)

Eastern District of Tennessee of Chattanooga

C. Collier

12-5876 Grant, Konvalinka & Harrison v. Leroy, et al.[1:11-cv-00346](#)

Eastern District of Tennessee of Chattanooga

C. Collier

Plaintiff appeals the dismissal on ground of immunity of its complaint for malicious prosecution and abuse of process brought against the Chapter 7 trustee and his counsel. (30 Minutes for Appellant; Appellees in each appeal will have 10 Minutes)

12-1591 USA v. Sidney Brown[1:11-cr-00150-1](#)

Western District of Michigan at Grand Rapids

P. Maloney

Defendant appeals his jury conviction and sentence for possession with intent to distribute cocaine base, possession of a firearm in furtherance of a drug trafficking crime, and possession of a firearm by a felon. (15 Minutes Per Side)

12-2201 Warren, City of, et al. v. International Insurance Compan[2:10-cv-10234](#)

Eastern District of Michigan at Detroit

L. Zatkoff

Plaintiffs appeal the summary judgment for defendant in this action seeking defense costs and indemnification under insurance contracts. (To Be Submitted On Briefs)

12-2135 County of Oakland, et al. v. Federal Housing Finance Agency, et al.[2:11-cv-12666](#)

Eastern District of Michigan at Detroit

V. Roberts

12-2136 Genesee County, et al. v. Federal Housing Finance Agency, et al.[2:11-cv-14971](#)

Eastern District of Michigan at Detroit

V. Roberts

In this action seeking payment of real estate transfer taxes, defendants appeal the interlocutory order finding that they were not exempted from payment of the taxes. (10 Minutes for Defendants; 5 Minutes for Amicus Curiae; 15 Minutes to be Shared by Plaintiffs & Intervenor Plaintiffs)

Thursday, May 02, 2013

607 - 6th Floor West Courtroom, 9:00 A.M.

Before: **Merritt, Suhrheinrich, Donald**

12-3768 USA v. Quin Willis**4:11-cr-00481-3** Northern District of Ohio at Youngstown D. Nugent**12-3773 USA v. Laroy Dock****4:11-cr-00481-1** Northern District of Ohio at Youngstown D. Nugent**12-3880 USA v. Milton Willis****4:11-cr-00481-2** Northern District of Ohio at Youngstown D. Nugent

Defendants appeal their convictions and sentences on charges that they impersonated federal law enforcement officers. They argue that the government failed to prove, beyond a reasonable doubt, all three elements required to support their convictions. (12-3773, 15 Minutes Per Side; 12-3768 and 12-3880, To Be Submitted On Briefs)

12-3983 Brenda Pearce, et al. v. Faurecia Exhaust Systems, Inc.**3:10-cv-00282** Southern District of Ohio at Dayton T. Rose

Plaintiffs appeal the summary judgment for defendant in this action claiming termination from employment in violation of the Workers Adjustment and Retraining Notification Act. (15 Minutes Per Side)

12-3909 USA v. Dominic Jeter**3:11-cr-00240-01** Northern District of Ohio at Toledo J. Carr

Defendant appeals the denial of his motion to suppress evidence and the judgment of sentence entered on his conditional guilty plea to possession of a firearm after conviction of a felony. (15 Minutes Per Side)

12-4183 Daniel Strebler v. Morgan Stanley & Company, Inc.**5:10-cv-00206** Northern District of Ohio at Akron J. Adams

Plaintiff in this ERISA action appeals a district court order denying his motion to reopen and vacate an arbitration award. (15 Minutes Per Side)

12-1957 Hany Choulagh v. Eric Holder, Jr.**2:10-cv-14279** Eastern District of Michigan at Detroit M. Battani

Plaintiff appeals the summary judgment for defendant in this Title VII employment discrimination action claiming national origin discrimination and retaliation. (15 Minutes Per Side)

12-1693 USA v. Dehaven Hogg**1:11-cr-20220-1** Eastern District of Michigan at Bay City T. Ludington

Defendant appeals his jury conviction and sentence for distribution of cocaine base. (To Be Submitted On Briefs)

12-5923 James Powers, et al. v. Cottrell, Inc.**3:11-cv-01209** Middle District of Tennessee at Nashville T. Campbell

Defendant appeals the award of attorneys' fees to plaintiffs. (To Be Submitted On Briefs)

Thursday, May 02, 2013

636 - 6th Floor East Courtroom, 9:00 A.M.

Before: **Boggs, Cole, Quist**

12-5931 Tanya Cobb v. Keystone Memphis, LLC

[2:10-cv-02385](#)

Western District of Tennessee at Memphis

C. Claxton

J. McCalla

Plaintiff appeals the summary judgment for defendant in this action alleging discrimination and retaliation. (15 Minutes Per Side)

12-4032 Stella Hall v. The Ohio Bell Telephone Compan

[1:11-cv-01219](#)

Northern District of Ohio at Cleveland

P. Gaughan

Plaintiff appeals the summary judgment for defendant in this action challenging termination from employment under the FMLA. (15 Minutes Per Side)

10-5842 Terry Norris v. Jerry Lester

[2:07-cv-2793](#)

Western District of Tennessee at Memphis

B. Donald

Petitioner appeals the district courts judgment denying a petition for a writ of habeas corpus filed under 28 U.S.C. section 2254. (15 Minutes Per Side)

12-2205 USA v. George Dodson, III

[2:11-cr-20548-1](#)

Eastern District of Michigan at Detroit

S. Cox

Defendant appeals the judgment entered on his plea of guilty of unlawful transfer of a machine gun. (To Be Submitted On Briefs)

12-5342 USA v. Thomas Stetler

[4:11-cr-1](#)

Eastern District of Tennessee at Winchester

H. Mattice

S. Lee

Defendant appeals his conviction by a jury and sentence for possessing a firearm while subject to a domestic violence order. (To Be Submitted On Briefs)

12-1072 USA v. Raymond McMichael

[4:04-cr-50074-1](#)

Eastern District of Michigan at Flint

S. Cox

Defendant appeals from a resentencing on a charge of conspiracy to manufacture and distribute marijuana. He is challenging the district court's refusal to grant a downward departure for substantial assistance that was previously granted when he was first sentenced. (To Be Submitted On Briefs)

12-3908 Linda Buck, et al. v. Ford Motor Company, et al.

[3:08-cv-00998](#)

Northern District of Ohio at Toledo

J. Carr

Plaintiffs appeal the summary judgment for defendant in this diversity action arising from an auto accident that raises product liability claims. (To Be Submitted On Briefs)

Thursday, May 02, 2013

636 - 6th Floor East Courtroom, 9:00 A.M.

Before: **Boggs, Cole, Quist****11-3959 USA v. Jason Morgan**

1:11-cr-12-17 Northern District of Ohio at Cleveland S. Lioi

11-4006 USA v. William Efford

1:11-cr-12-18 Northern District of Ohio at Cleveland S. Lioi

11-4017 USA v. Kyron Marlin

1:11-cr-12-11 Northern District of Ohio at Cleveland S. Lioi

12-3604 USA v. Travon Williams

1:11-cr-00012-5 Northern District of Ohio at Cleveland S. Lioi

Defendants appeal the judgment of conviction and sentence entered on their guilty pleas to distribution of and conspiracy to distribute heroin. (To Be Submitted On Briefs)

12-4071 Imad Alshaibani, et al. v. Litton Loan Servicing LP

2:12-cv-00063 Southern District of Ohio at Columbus E. Sargus

Plaintiffs appeal the dismissal for failure to state a claim this action for breach of contract, violation of the Ohio Consumer Sales Practices Act, and other claims that challenge the defendant's actions in servicing of a mortgage. (To Be Submitted On Briefs)

12-1864 Reginald Hayes, et al. v. Liberty Insurance Corporation

2:11-cv-15520 Eastern District of Michigan at Detroit S. Murphy

In this diversity breach of insurance contract action, plaintiffs appeal the order dissolving a preliminary injunction enjoining the termination of payment of living expenses. (To Be Submitted On Briefs)

12-3528 Burenjargal Dugarsuren, et al. v. Eric Holder, Jr.

a088-590-931 Board of Immigration Appeals

a088-590-932 Board of Immigration Appeals

a088-590-933 Board of Immigration Appeals

Petitioners seek review of a decision of the BIA that denies asylum, withholding of removal, and protection under the Convention Against Torture. (To Be Submitted On Briefs)

Thursday, May 02, 2013

805 - Courtroom 1, 9:00 A.M.

Before: **Clay, Cook, Oliver**

12-5739 Robert Stooksbury, Jr. v. Michael Ross, et al.[3:09-cv-00498](#)

Eastern District of Tennessee at Knoxville

T. Varlan

12-6042 Robert Stooksbury, Jr. v. Michael Ross, et al.[3:09-cv-00498](#)

Eastern District of Tennessee at Knoxville

T. Varlan

12-6230 Robert Stooksbury, Jr. v. Michael Ross, et al.[3:09-cv-00498](#)

Eastern District of Tennessee at Knoxville

T. Varlan

Defendants appeal the judgment for one plaintiff in this action asserting violations of the RICO Act and state law claims for fraud and breach of fiduciary duty. (15 Minutes to be Shared by Defendants & Intervening Defendants; 15 Minutes for Plaintiff)

12-6059 Marcus Werner v. Bell Family Medical Center, In, et al.[3:09-cv-00701](#)

Middle District of Tennessee at Nashville

M. Aspen

Plaintiff appeals the judgment for defendants in this civil action under the Fair Labor Standards Act. (15 Minutes Per Side)

12-6025 Yolanda Chigano, et al. v. City of Knoxville, et al.[3:10-cv-00160](#)

Eastern District of Tennessee at Knoxville

T. Campbell

Plaintiffs appeal the summary judgment for defendants in this civil action alleging various constitutional violations and racial discrimination related to their minor disabled daughter's school arrest. (15 Minutes Per Side)

12-5610 USA v. Exsaul Silva-Garcia[3:10-cr-00035-3](#)

Western District of Kentucky at Louisville

J. Heyburn

Defendant appeals his conviction and sentence, upon a jury verdict, to possession with intent to distribute marijuana. (15 Minutes Per Side)

11-1856 Sylvester Washington v. Greg McQuiggin[2:11-cv-212](#)

Western District of Michigan at Marquette

R. Bell

Petitioner appeals the district courts judgment denying a petition for a writ of habeas corpus filed under 28 U.S.C. Section 2254. (15 Minutes Per Side)

12-1304 USA v. Carolyn Moore[1:10-cr-20018-1](#)

Eastern District of Michigan at Bay City

T. Ludington

Defendant appeals her conviction by a jury and sentence for fraud and false statements, wire fraud, and conspiracy to commit mail fraud. (To Be Submitted On Briefs)

Friday, May 03, 2013

403 - 4th Floor Courtroom, 9:00 A.M.

Before: **Clay, Cook, Oliver**

11-2090 Innovation Ventures, LLC v. Bhelliom Enterprises Corp.**2:09-cv-13783**

Eastern District of Michigan at Detroit

L. Zatkoff

In this action under the Lanham Act alleging trademark infringement and false advertising, plaintiff appeals the summary judgment for defendant and the denial of its Rule 59(e) motion to alter or amend. (15 Minutes Per Side)

12-3847 USA v. Shane Roush**2:10-cr-00300-1**

Southern District of Ohio at Columbus

A. Marbley

Defendant appeals the judgment of conviction and sentence entered on his guilty plea to manufacturing through cultivation more than 1,000 marijuana plants. (15 Minutes Per Side)

12-3849 Xuejiao Ji v. Eric Holder, Jr.**a089 899 455**

Board of Immigration Appeals

Petitioner seeks review of a decision of the BIA that denies asylum, withholding of removal, and protection under the Convention Against Torture. (15 Minutes Per Side)

12-3872 Whitaker Coal Corp v. James Osborne**11-0256 bla**

Benefits Review Board

Petitioner seeks review of a decision of the Benefits Review Board affirming the award of benefits under the Black Lung Benefits Act. (To Be Submitted On Briefs)

12-5614 USA v. Joe Tyus**1:10-cr-10084-1**

Western District of Tennessee at Jackson

J. Breen

Defendant appeals his conviction and sentence, upon a guilty plea, to possession of cocaine base with intent to distribute. (To Be Submitted On Briefs)

12-6018 Gary Colyer v. Traveler's Insurance Company, et al.**6:10-cv-00175**

Eastern District of Kentucky at London

G. Van Tatenhove

Plaintiff appeals the summary judgment for defendants in this civil diversity action arising from an automobile accident. (To Be Submitted On Briefs)